

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Implement 211  
Dialing in California.

Rulemaking 02-01-025

**ADMINISTRATIVE LAW JUDGE'S RULING REGARDING  
NOTICES OF INTENT TO CLAIM COMPENSATION**

**I. Summary**

This ruling responds to the notices of intent to claim compensation (NOIs) that The Utility Reform Network (TURN) and the California Alliance of Information and Referral Services (CAIRS) separately filed in this docket. After consultation with the assigned Commissioner, I find that TURN is eligible for compensation in this proceeding pursuant to Pub. Util. Code § 1804.<sup>1</sup> CAIRS has met all but one of the requirements necessary for a finding of eligibility.

These parties should see to it that they do not duplicate each other's efforts. Such duplication may result in a reduction in the amount of compensation ultimately awarded.

**II. NOI Requirements**

**A. Timely Filing**

Under § 1804(a)(1), "[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve

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<sup>1</sup> All statutory references are to the Public Utilities Code.

on all parties to the proceeding a notice of intent to claim compensation.” The prehearing conference in this proceeding was held on March 8, 2002. The due date for NOIs was April 8, 2002. TURN timely filed on April 4, 2001, and CAIRS timely filed on April 8, 2002.

## **B. Customer Status**

Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b), whether the intervenor is (1) a participant representing consumers, (2) a representative authorized by a customer, or (3) a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers.<sup>2</sup>

Participation in Commission proceedings by parties representing the full range of affected interests is important. Such participation assists the Commission in ensuring that the record is fully developed and that each customer group receives adequate representation.

### **1. TURN**

TURN meets the third definition of customer, as set forth in § 1802(b): it is a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers.<sup>3</sup> TURN is

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<sup>2</sup> “When filing its Notice of Intent, a participant should state how it meets the definition of customer: as a *participant* representing consumers, as a *representative* authorized by a customer, or as a representative of a *group or organization* that is authorized by its bylaws or articles of incorporation to represent the interests of residential customers.” D.98-04-059, *mimeo.* at 28-29 (emphasis in original).

<sup>3</sup> D.98-04-059 directed intervenors either to file their articles of incorporation/by-laws with the NOI, or to provide a reference to a previous filing. (*Id.* at 30.) TURN chose the

*Footnote continued on next page*

organized to represent and advocate the interests of consumers of public utility services in California. TURN qualifies as a customer because it is an organization authorized by its articles of incorporation to represent the interests of consumers, a portion of which are residential customers.

## **2. CAIRS**

CAIRS meets the first definition of customer, because it represents customers of telephone utilities. In particular, CAIRS represents those customers of phone companies that provide information regarding health and human services to a large number of people across the state via the telecommunications network. Because members of CAIRS will be providing the information services envisioned by 211 calling, there is significant public interest in having the participation of CAIRS in this proceeding.

### **C. Significant Financial Hardship**

Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1802(g) defines “significant financial hardship”:

“Significant financial hardship” means either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group or organization, the economic interest of the individual

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latter alternative, referring to articles of incorporation it filed with its NOI in Application (A.) 98-02-017. TURN has approximately 30,000 dues paying members, the majority of whom it believes to be residential ratepayers. TURN does not poll its members to determine whether they are residents or small businesses, so no percentage split is available as required by D.98-04-059, Finding of Fact 12.

members of the group or organization is small in comparison to the costs of effective participation in the proceeding.

Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI, or alternatively in the request for an award of compensation.

## **1 TURN**

A rebuttable presumption of eligibility exists for TURN. On December 19, 2001, Administrative Law Judge Robert Barnett ruled in A.01-09-003 that TURN had made a showing of significant financial hardship, had met the requirements of § 1804(a), and was eligible for compensation in that proceeding. Because this proceeding commenced within one year of ALJ Barnett's December 19, 2001 ruling, a rebuttable presumption exists that TURN is eligible for compensation in this proceeding. No party has attempted to rebut that presumption. If any party attempts to rebut this presumption, TURN is granted leave to furnish evidence of its significant financial hardship within 10 days of the rebuttal's filing.

TURN did not otherwise attempt to establish financial hardship in its NOI.

## **2 CAIRS**

Pursuant to § 1804 (a)(2)(B), CAIRS intends to submit a hardship showing when it submits its request for compensation following the issuance of a final order or decision in this proceeding.

#### **D. Nature and Extent of Planned Participation**

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted.

##### **1. TURN**

TURN meets the requirement that it spell out its planned participation. TURN notes that it has already become an active party in this proceeding. TURN plans to focus on making sure that a scarce numbering resource, 2-1-1, is used in a socially beneficial way, that all Californians will have access to 2-1-1 services, and that ratepayer do not bear the burden for the entire development of this service. In addition, TURN plans to ensure that 2-1-1 is deployed in the public switched network in a nondiscriminatory manner so that all carriers can offer the service.

##### **2. CAIRS**

CAIRS also spells out its planned participation. CAIRS anticipates playing a significant role in this proceeding. CAIRS notes that it has provided its expertise to advise the Commission on the Rulemaking's proposed guidelines and on application procedures for those who hope to use the 2-1-1 dialing code. No other party has its experience and knowledge concerning acceptable information and referral standards. CAIRS also notes that it plans to provide the Commission technical analyses concerning the routing of 2-1-1 calls in California.

#### **E. Itemized Estimate of Compensation**

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive.

## 1. TURN

TURN estimates a total projected budget of \$30,900 for this case, based on proposed hourly rates that TURN will address in its request for compensation. The estimate breaks down as follows:

<b>Amount</b>	<b>Description</b>
	<b>Fees</b>
\$11,250	50 hours of attorney time by Christine Mailloux at \$225/hour
\$11,000	50 hours of research time by Regina Costa at \$200/hour
\$ 4,000	20 hours of attorney time by James Anthony at \$200/hour
\$3,400	10 hours of supervisory attorney time by Robert Finkelstein at \$340/hour
	<b>Costs</b>
\$ 1,250	Miscellaneous
\$30,900	<b>Total</b>

TURN satisfactorily presents an itemized estimate of the compensation it expects to request. However, the number of attorney hours may be excessive. As must any intervenor, TURN must fully support its request for compensation, including the reasonableness of the hours spent and hourly rates.

## 2. CAIRS

CAIRS estimates a total projected budget of \$38,450 for this case, based on proposed hourly rates. CAIRS must address these rates in its request for compensation. The estimate breaks down as follows:

<b>Amount</b>	<b>Description</b>
	<b>Fees</b>
\$8,250	30 hours of attorney time by Kenneth Taymor at \$275/hour
\$16,800	80 hours of attorney time by Andrew Ulmer at \$210/hour
\$ 6,400	40 hours of legal assistant time by Mark Lyons at \$160/hour
\$6,000	40 hours of technical consultant time by Chuck Hensley at \$150/hour
	<b>Costs</b>
\$ 1,000	Travel and Costs
\$38,450	<b>Total</b>

CAIRS satisfactorily presents an itemized estimate of the compensation it expects to request. However, the number of attorney hours may be excessive. As must any intervenor, CAIRS must fully support its request for compensation, including the reasonableness of the hours spent and hourly rates.

### **IT IS RULED** that:

1. The Utility Reform Network (TURN) has established all elements necessary to a finding of its eligibility for intervenor compensation. However, should any party attempt to rebut the presumption based on an earlier ruling that TURN will face significant financial hardship in participating in this

proceeding, TURN is granted leave to furnish evidence of its significant financial hardship within 10 days of the rebuttal's filing. If it does not do so, the Commission will determine financial hardship when TURN submits its request for compensation.

2. CAIRS has met some, but not all, of the requirements of eligibility for intervenor compensation. It has not established financial hardship, but may do so with its request for compensation.

3. A finding of eligibility in no way assures compensation.

4. Intervenors shall make every effort to reduce duplication of contribution.

Dated April 22, 2002, at San Francisco, California.

/s/ TIMOTHY J. SULLIVAN

Timothy J. Sullivan  
Administrative Law Judge



**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Notices of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated April 22, 2002, at San Francisco, California.

/s/ JACQUELINE GORZUCH  
Jacqueline Gorzoch

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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